

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

WILLIAM MCSHO HALL, II,

Case No. 20-CV-2551 (JRT/HB)

Petitioner,

v.

REPORT AND RECOMMENDATION

HENNIPEN COUNTY POLICE
DEPARTMENT, HENNIPEN COUNTY
CIRCUIT COURT, and MINNESOTA
DEPARTMENT OF CORRECTIONS,

Respondents.

In an Order dated December 22, 2020, this Court directed Petitioner William McSho Hall, II, to file an amended § 2254 petition by January 19, 2021, because his original filing did not contain basic information necessary to understand his claims and ensure the Court’s jurisdiction. (Order 2–3 [ECF No. 4].) The Court warned Hall that failure to comply would result in a recommendation that the case be dismissed for failure to prosecute under Federal Rule of Civil Procedure 41(b). (*Id.* 3.) Hall asked for an extension of time [ECF No. 7], and this Court extended the deadline for Hall to file an amended petition to February 11, 2021 (Order 1 [ECF No. 8].) Hall then filed a letter asking for an extension of time to “file a motion to compel court to accept the petition as written.” (Letter 1 [ECF No. 9].) The Court denied the request and reiterated the deficiencies with the original filing. (Order 1–2 [ECF No. 10].) The Court strongly urged Hall to prepare an amended petition and warned him to file either an amended

petition or a motion asking the Court to accept his original filing as his petition by February 11, 2021. (*Id.* 3–4.)

That deadline has now passed, and Hall has not submitted an amended petition or a motion asking the Court to accept his original filing as his petition. Accordingly, this Court now recommends, in accordance with its prior Order, that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. *See, e.g., Henderson v. Renaissance Grand Hotel*, 267 F. App'x 496, 497 (8th Cir. 2008) (per curiam) (“A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff’s failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.”). Alternatively, the Court recommends that the action be dismissed without prejudice because Hall’s original petition lacks essential information, such as the state-court judgment he is challenging. Finally, the Court recommends denying as moot Hall’s application to proceed in district court without prepaying fees or costs [ECF No. 2].

Accordingly, based all of the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED** that:

1. This action be **DISMISSED WITHOUT PREJUDICE** under Federal Rule of Civil Procedure 41(b) for failure to prosecute; and
2. Petitioner William McSho Hall, II’s application to proceed in district court without prepaying fees or costs [ECF No. 2] be **DENIED AS MOOT**.

Dated: February 23, 2021

s/ Hildy Bowbeer
Hildy Bowbeer
United States Magistrate Judge

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. *See* Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).